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COUNTY OF LOS ANGELES and SERGEANT TRAVIS KELLY
(Defendants is exempt from filing fees pursuant to Government Code § 6103)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA ASSIFF,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532; And DOES 1
through 10,

Defendants.

Case No.: 2:22-cv-05367 RGK(MAAX)

**DEFENDANTS' MOTION IN
LIMINE NO. 8 TO PRECLUDE
ANY EVIDENCE, ARGUMENT OR
TESTIMONY RE: PLAINTIFF'S
YOUTH OR IMMATURITY;
MEMORANDUM OF POINTS AND
AUTHORITIES**
*(Declaration Of Molshree Gupta, Esq. Filed
Concurrently)*

Action Filed: August 3, 2022
Pretrial Conference: July 10, 2023
Trial Date: July 25, 2023

Assigned to:
Hon. R. Gary Klausner, District Judge
Courtroom 850
All Discovery Matters Referred to:
Hon. Maria A. Audero, District Judge

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT defendants COUNTY OF LOS ANGELES and
3 SERGEANT TRAVIS KELLY (collectively “Defendants”) hereby move this Court for
4 an order in limine to preclude evidence, references, argument and testimony by Plaintiff
5 JOSHUA ASSIFF and his counsel to Plaintiff’s youth or immaturity.

6 Defendants bring this Motion on the grounds that that the incident occurred when
7 Plaintiff was an adult, almost twenty-one (21). Accordingly, evidence, references,
8 argument and testimony by Plaintiff and his counsel to Plaintiff’s youth or immaturity
9 solely to garner sympathy from the jury and enflame their emotions to Defendants’
10 prejudice and must be excluded.

11 such evidence is irrelevant to the issues to be tried; amounts to inadmissible
12 character evidence; is more prejudicial than it is probative; lacks sufficient evidentiary
13 foundation; and would therefore only serve to unduly prejudice defendants, waste time,
14 confuse the issues, and mislead the jury.

15 Defendants further move this Court to instruct plaintiffs and their counsel and to
16 require them to advise all witnesses:

17 1. Not to attempt to convey to the jury, directly or indirectly, any of the facts
18 mentioned in this Motion without first obtaining permission of the Court outside the
19 presence and hearing of the jury;

20 2. Not to make any reference to the fact that this Motion has been filed; and

21 3. To warn and caution each of plaintiffs’ witnesses to strictly follow the same
22 instructions.

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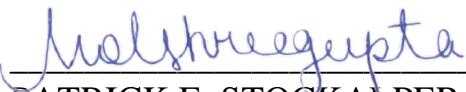
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1 This motion is made following compliance with the meet and confer requirements
2 of Local Rule 7-3. This Motion is based upon the Memorandum of Points and
3 Authorities and Declaration of Molshree Gupta, served herewith, upon the pleadings and
4 papers on file herein, and upon such other and further oral argument and evidence as
5 may be presented at the hearing on this Motion.

6
7 Dated: June 9, 2023

KJAR, MCKENNA & STOCKALPER, LLP

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9 By: 
10 PATRICK E. STOCKALPER
11 MOLSHREE GUPTA
12 Attorneys for Defendants,
13 COUNTY OF LOS ANGELES and SERGEANT
14 TRAVIS KELLY
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION & ARGUMENT

This is a 42 U.S.C. §1983 alleged excessive force case arising out of a traffic stop and subsequent arrest of Plaintiff JOSHUA ASSIFF (“Plaintiff”) by Defendant SERGEANT TRAVIS KELLY (“Defendant Kelly”) on September 24, 2021, in the Santa Clarita Valley. Plaintiff alleges that Defendant Kelly pulled him over for no apparent reason; tasered, choked, pepper sprayed and beat him; and arrested him without probable cause, all in violation of his constitutional rights.

Defendants anticipate Plaintiff and his counsel may attempt to introduce into evidence, by references, argument or testimony, Plaintiff’s youth or immaturity. Such evidence is inappropriate to present to a jury as it is meant to garner favor and bias. Moreover, a jury could interpret such evidence or argument to explicitly or implicitly excuse Plaintiff’s conduct and/or believe that Plaintiff was less likely to have engaged in the actions in the incident simply due to his age.

II. LEGAL AUTHORITY FOR MOTIONS IN LIMINE

A motion in *limine* “is any motion, whether made before or during trial, to exclude anticipated prejudicial evidence before the evidence is actually offered.” *Luce v. United States* (1984) 469 U.S. 38, 40. Motions in *limine* are well recognized in practice and by case law. See *Ohler v. United States* (2000) 529 U.S. 753, 758; *United States v. Cook* (9th Cir. 1979) 608 F.2d 1175, 1186.

The purpose is to avoid the futile attempt of “unring[ing] the bell” when jurors have seen or heard inadmissible evidence, even when stricken from the record. See *Brodit v. Cambra* (9th Cir.2003) 350 F.3d 985, 1004-05 (citing *Kelly v. New West Fed. Sav.* (1996) 49 Cal. App. 4th 659, 669). Motions in *limine* also serve to streamline trials, by settling evidentiary disputes in advance. See *U.S. v. Tokash* (7th Cir. 2002) 282 F.3d 962, 968.

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1 **III. MEET AND CONFER**

2 On June 8, 2023, and on June 9, 2023, counsel for Defendants wrote to counsel for
3 Plaintiff to request to meet and conferred on the substance of this Motion in *Limine*.
4 Gupta Decl. ¶ 4. No agreement could be reached. Gupta Decl. ¶ 4.

5 **IV. CONCLUSION**

6 Based on the foregoing, defendants respectfully request the Court grant this
7 Motion in *Limine*, and preclude evidence, references, argument and testimony by
8 Plaintiff and his counsel as to Plaintiff's youth or immaturity.

9
10 Dated: June 9, 2023

KJAR, MCKENNA & STOCKALPER, LLP

11
12
13 By:



14 PATRICK E. STOCKALPER

15 MOLSHREE GUPTA

16 Attorneys for Defendants,

17 COUNTY OF LOS ANGELES and SERGEANT

18 TRAVIS KELLY
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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 841 Apollo Street, Suite 100, El Segundo, California 90245.

On June 9, 2023, I served the foregoing document described as **DEFENDANTS' MOTION IN LIMINE NO. 8 TO PRECLUDE ANY EVIDENCE, ARGUMENT OR TESTIMONY RE: PLAINTIFF'S YOUTH OR IMMATURITY; MEMORANDUM OF POINTS AND AUTHORITIES** on all interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

By Mail I caused such envelope(s) to be deposited in the mail at El Segundo, California. The envelope was mailed with postage thereon fully prepaid and addressed to the parties listed on the Service List. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

XX By Email Based upon a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in the Service List. My email address is mnixon@kmslegal.com.

By Personal Service I caused such document to be Personally Served on the parties listed in the Service List.

XX State I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 9, 2023, at El Segundo, California.



Maria Nixon

SERVICE LIST

Assiff, Joshua vs. County of Los Angeles, et al.

Central District- Case No.: 2:22-cv-05367 RGK(MAAX)

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Philip Cohen, Esq. Law Offices of Philip Kent Cohen, APC 100 Wilshire Boulevard, Suite 1300 Santa Monica, CA 90401 Telephone: 310/451-9111 Facsimile: 310/451-9119 EM: pcohen@pcohenlaw.com	Co-Attorney for Plaintiff. JOSHUA ASSIFF